

§ 4.116

personally at the hearing. In such instances, however, the depositions may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the Board may in its discretion receive depositions as evidence in supplementation of that record.

(e) *Expenses.* Each party shall bear its own expenses associated with the taking of any deposition.

§ 4.116 Interrogatories to parties; inspection of documents; admission of facts.

Under appropriate circumstances, but not as a matter of course, the Board will entertain applications for permission to serve written interrogatories upon the opposing party, applications for an order to produce and permit the inspection of designated documents, and applications for permission to serve upon the opposing party a request for the admission of specified facts. Such applications shall be reviewed and approved only to the extent and upon such terms as the Board in its discretion considers to be consistent with the objective of securing just and inexpensive determination of appeals without unnecessary delay, and essential to the proper pursuit of that objective in the particular case.

§ 4.117 Service of papers.

A copy of all pleadings, briefs, motions, letters, or other papers filed with the Board, shall be served upon the other party at the time of filing. Service of papers may be made personally or by mailing in a sealed envelope addressed to the other party. Any paper filed with the Board shall show on its face, or in the letter transmitting the same, that a copy thereof has been served upon the other party. When the other party is represented by counsel, such service shall be made upon him, and service upon counsel shall be deemed to be service upon the party he represents.

HEARING PROCEDURE RULES

§ 4.118 Hearings—where and when held.

Hearings may be held in Arlington, Virginia, or upon timely request and

43 CFR Subtitle A (10–1–07 Edition)

for good cause shown, the Board may in its discretion set the hearing on an appeal at a location other than Arlington, Virginia. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other pertinent factors. However, where it is apparent that no issue of fact is presented in an appeal proceeding, the Board may deny a request for hearing. On request or motion by either party and for good cause shown, the Board may in its discretion adjust the date of a hearing.

§ 4.119 Notice of hearings.

The parties shall be given at least 15 days' notice of the time and place set for hearings. In scheduling hearings, the Board will give due regard to the desires of the parties, and to the requirement for just and prompt determination of appeals. Receipt of a notice of hearing shall be promptly acknowledged by the parties. A party failing to acknowledge a notice of hearing shall be deemed to have consented to the indicated time and place of hearing.

§ 4.120 Subpoenas. (See § 4.100(a)(2).)

(a) *General.* Upon written request of either party filed with the docket clerk or on his own initiative, the Administrative Judge to whom a case is assigned or who is otherwise designated by the Chairman may issue a subpoena requiring:

(1) *Testimony at a deposition*—the deposing of a witness, in the city or county where he resides or is employed or transacts his business in person, or at another location convenient for him that is specifically determined by the Board;

(2) *Testimony at a hearing*—the attendance of a witness for the purpose of taking testimony at a hearing; and

(3) *Production of books and papers*—in addition to paragraphs (a) (1) and (2) of this section, the production by the witness at the deposition or hearing of books and papers designated in the subpoena.

(b) *Voluntary cooperation.* Each party is expected (1) to cooperate and make available witnesses and evidence under its control as requested by the other party, without issuance of a subpoena,